

JEFFERSON COUNTY COMMISSIONERS
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TOM LYTHGOE, CHAIR

CHUCK NOTBOHM

KEN WEBER

**PROCEEDING OF THE BOARD OF COMMISSIONERS
COUNTY OF JEFFERSON, STATE OF MONTANA
July 11, 2006**

Present: Commissioners Lythgoe, Notbohm and Weber; Harold Stepper, County Planner; Mike Hoffman, Assistant Planner; Matt Johnson, County Attorney; Bill Lloyd, Great West Engineering; Mike Gilles, Shane Coleman, Wally Hustad, Kay Ann Davis, William Norris, Jan Anderson, *Boulder Monitor/Jefferson County Courier*

MINUTES

Commissioner Lythgoe moved to approve the minutes of June 20. Commissioner Notbohm seconded. The motion carried.

Commissioners Weber moved to approve the minutes of June 27. Commissioner Notbohm seconded. The motion carried.

CALENDAR REVIEW

- 7/12 JLDC Planning meeting
Ridgeview subdivision on-site review - 4:00
Planning Board public hearing - 7:00
- 7/13 Elkhorn Working Group - 3:00
Library Board - Whitehall - 6:30
- 7/17 Departmental budget meetings - 9:00 - 2:00

COMMISSION REPORTS

NORTH END BUSINESS ROUNDTABLE

Commissioner Lythgoe reported that he attended the north end business roundtable at noon. He talked regarding the RID/RMD, and Harold Stepper spoke about the zoning.

LIBRARY BOARD

Commissioner Weber reported that Glenna Waltee, library board chair, was in on Friday. She was upset about the letter that the Commission sent to the board members. She felt that an informal phone call would have been sufficient. He told her that a phone call hasn't worked in the past. Glenna also stated that she felt that she has controlled negative comments towards

Commissioners in attendance at the meetings since she has been chair. Commissioner Weber stated that he offered some instances from his personal experience, which Glenna then conceded had happened. Jan Anderson noted her concern with the library board's next meeting agenda. They indicate that they will be hiring a Clancy librarian, but there has been no posting in her papers. She was just sent the position announcement for the Wednesday paper, but the decision is supposed to be made on Thursday night. Commissioner Lythgoe stated that the library board needs to stop the process and do it right. Commissioner Weber stated that he will address this at the board meeting.

FOREST SERVICE TOUR

Commissioner Notbohm reported that he and Commissioner Weber went on a road tour with the Forest Service on Thursday. They opened up Brooklyn Bridge Road, and planned to travel the length of the road. However, about 1/4 mile in, there was a tree across the road. They were in a Forest Service vehicle, but Commissioner Notbohm stated that he had a chain saw back in his vehicle, but the Forest Service refused to go back to get it and clear the road.

FOREST SERVICE GRAZING

Commissioner Notbohm stated that he got a call from Dorothy Lake regarding grazing on Forest Service lands. She is being kept out, and Duane Harp stated that he would fix the problem for her. There are now green trees across the road, not just debris. He called Duane, who is out of state. Duane stated that he was not aware of the road being blocked, and will check into it. Commissioner Lythgoe agreed that the roads are awful, with all of the debris on them.

CORRESPONDENCE

The FY 2007 service agreement and service provider designation with Boyd Andrew was presented for signature. Commissioner Lythgoe moved to sign the documents. Commissioner Weber seconded. The motion carried.

The lease agreement with the Clancy School for the Museum was presented for signature. The County Attorney has reviewed and approved the lease. Commissioner Notbohm moved to sign the lease. Commissioner Lythgoe seconded. The motion carried.

The lease between the County and Boyd Andrew was returned for initials by the insertion of one word in the document. The word does not change the meaning of the document. The Commissioners initialed the addition.

SUBDIVISION REVIEW

FINAL PLAT APPROVAL - DAVIS MINOR SUBDIVISION

Mike Hoffman, Assistant County Planner, presented his staff report and recommended that final plat approval be granted. Commissioner Weber moved to grant final plat approval to the Davis Minor Subdivision. Commissioner Notbohm seconded. The motion carried.

ITEMS FOR COMMISSIONERS ACTION OR REVIEW

SHANE COLEMAN - REQUEST FOR VARIANCE - HUSTAD SUBDIVISION

Shane Coleman, attorney for Wally Hustad, presented a map showing the area where Mr. Hustad proposes to develop a subdivision. He stated that the core problem is that historically, a subdivision needs to have two points of ingress/egress. Circles on the map indicate four access points Wally believes that he had when he purchased the property. Shane stated that the County Attorney has suggested that they can request a variance to have only one point of ingress/egress. However, the process requires that the developer presents a formal subdivision preliminary plat, and Wally already has a quarter million invested in this project. He would like to talk about the procedure. They would like to be able to get an answer if a variance could be granted, before spending a lot of money on engineers. He understands that this may be a moot point, as he hears that the Commission may be considering changing the process.

Commissioner Lythgoe asked if the access onto Sunnyside is the current access to the Hustad home. Shane stated that it is. Commissioner Notbohm stated that he would like to have Harold address this, as he has dealt with this, and also asked about previous preliminary plat submissions. Harold stated that there have been previous submissions, but he understands that the plans may have changed. He needs to have something to review to see if they will meet the requirements. Commissioner Notbohm asked about Beaver Lane. Harold stated that he and Commissioner Lythgoe met with the water users association some time ago. They own the parkland, and gave an unequivocal no to the request to access the proposed subdivision through the park.

Commissioner Notbohm asked if there are major changes to past submittals. Wally stated that the only other proposal he has worked on he showed to Harold years ago. It is substantially different; he was working under the assumption that he would build two bridges on his property with infrastructure on half of his property. When he brought the plans in, Harold pointed out a problem, that there is a narrow point in the road. Shane stated that there have been conversations with the state regarding Sunnyside in regards to traffic count. They are currently trying to get a yes or no answer on the permissibility of having just one point of ingress and egress, and then they can proceed. They don't want to spend a lot on a formal plan, only to be told there is no way to do it with only one point of ingress/egress.

Commissioner Lythgoe stated, for discussion purposes, this is something that the Commission is going to be dealing with. He then read language that is currently in the subdivision regulations, and then proposed language drawn up by the County Attorney. The subdivision regulation currently reads: *"Each subdivision shall provide at least two different ingress-egress routes."* The proposed new language would read: *"Each subdivision shall provide at least two different ingress-egress routes. If for some reason two different ingress-egress routes are not attainable, the developer will submit a written request for a variance to the two different ingress-egress routes to the governing body prior to Preliminary Plat approval. The request must contain a proposed plat of the subdivision. A variance request approval does not constitute a Preliminary Plat approval for the subdivision."* Shane stated that his gut reaction is that this will leave them in the same boat, if they have to go to an engineer for a plat design. What they would really like to know is if it even remotely possible to be able to do this subdivision.

Commissioner Weber stated that both sides are faced with a dilemma. If the Commission says yes to a variance without knowing what the subdivision will be, we aren't doing our job

properly. Mr. Hustad doesn't want to spend a lot of money without knowing if he has a chance to get the subdivision approved. Road requirements change drastically with increased traffic, so the Commission needs to have some idea of ADT. Shane stated that they are trying to bridge the gap. He understands that the Commission needs information; if density is an issue, they can provide that.

Commissioner Lythgoe asked Harold what exactly the issues are. Harold stated how many lots there will be and where they are located. Commissioner Lythgoe said that he is not sure that the location is an issue, but they do need to know how many. Harold noted that it doesn't necessarily have to be an engineered plat; it could be a rough drawing. Commissioner Notbohm stated that they would need something to show to the planning board, to make their decision on. Commissioner Lythgoe stated that the Commission needs to approve the variance, so the Commission needs to get the information.

Commissioner Weber asked, in their thoughts and plans, if this is the only variance that they see being needed. A lot of scenarios have been thrown around. Commissioner Lythgoe stated that he doesn't think there is any difference at this point if the road will be gravel or hard surface. The developer needs to know if he will be allowed one point of ingress/egress, or two points of ingress/egress onto Sunnyside. He then asked Harold what are the two or three most important considerations needed to give a variance, before developers go and spend a lot of money. In this instance, the state is okay with whatever the County is okay with. Shane stated that the state has approved a traffic count for up to 199 units. He noted that they are only asking for "conceptual approval". He is encouraged to hear that they may be able to get a variance based on a drawing. Commissioner Lythgoe asked Harold, for clarification, if a developer could present a basic conceptual drawing, rather than an engineered plan. Harold stated that this is correct; they use them all the time on pre-submittal. However, the plan needs to be carried forward; he can't get a drawing with 50 homes and then get a formal submittal with 100 homes. Wally stated that he got the okay from the state for one point of ingress/egress, and his design is based on the maximum number from the state.

Commissioner Notbohm asked if this is going to get expensive. Wally stated that with the improvements to Sunnyside, 282 and the intersection of Lump Gulch, he is looking at around \$300,000. He then asked if it would be okay to just rough in the roads marking the potential for a need for a variance, for grade, etc., rather than delineating each lot. He would indicate the parkland and housing areas, and the possible waste-water treatment area, as well as density. Commissioner Lythgoe agreed that they would need to know the density. He stated that he feels what is being proposed is appropriate; roughing out where things are, density, if there will be a water system, etc. Harold stated that this sounds good. He noted that even if they go with the maximum allowable, they see changes all the time between preliminary and final plats. As an example, the DEQ may not approve the proposed density.

Commissioner Weber stated, to give a one sentence answer, yes, the potential for a variance is there.

BILL LLOYD - PRESENT CDBG ECONOMIC DEVELOPMENT DRAFT GRANT APPLICATION

Bill presented the Commission with a draft grant application, noting that this is a planning

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project to consist of a detailed inventory and evaluation of the Jefferson County road and bridge infrastructure. He gave an overview of the application, and stated that he needs to meet with Bonnie to discuss the financial aspects. Commissioner Lythgoe noted that, as this is an economic development grant, it makes sense to use metal mines money for the match.

RESOLUTION 20-2006 AUTHORIZING GRANT MATCH FOR CDBG ED GRANT

Commissioner Weber read the resolution as follows:

RESOLUTION 20-2006

AUTHORIZING MATCHING FUNDS FOR CDBG ECONOMIC DEVELOPMENT GRANT

WHEREAS, Jefferson County Montana elected to complete a Capital Improvement Plan, including a Road Inventory and Evaluation; and

WHEREAS, the Capital Improvement Plan and Road Inventory and Evaluation are estimated to cost \$30,000; and

WHEREAS, on June 27, 2006, the Jefferson County Commission authorized submittal for a Community Development Block Grant Program (CDBG) Economic Development Grant in the amount of \$15,000.00; and

WHEREAS, the County's match requirement is 50% for the Capital Improvement Plan and Road Inventory and Evaluation; and

WHEREAS, Jefferson County may appropriate federal or state money received during the fiscal year by formal resolution;

NOW, THEREFORE, BE IT RESOLVED that the Jefferson County Commission hereby appropriates the sum of \$15,000.00 and directs the County Clerk and Recorder to allocate said amount to the following program/objective:

<u>Expenditure Code</u>	<u>Administrative Costs</u>	<u>Activity Costs</u>
Capital Improvement Plan	<u>\$0.00</u>	<u>\$15,000.00</u>
TOTALS	\$0.00	\$15,000.00

BE IT FURTHER RESOLVED that the above appropriation shall become effective on July 11, 2006.

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ATTEST:

**BONNIE RAMEY
CLERK AND RECORDER**

TOMAS E. LYTHGOE, CHAIR

CHUCK NOTBOHM, COMMISSIONER

KEN WEBER, COMMISSIONER

Commissioner Lythgoe moved to adopt the resolution. Commissioner Weber seconded. The motion carried.

PUBLIC HEARING - PETITION TO CLOSE STREET IN BASIN

Commissioner Lythgoe called the public hearing to order and called for comments.

William Norris stated that his concern is that the water main that feeds the area runs down the middle of the street. Also, the only fire hydrant in the vicinity, which protects about 20 homes, is accessed there. He is concerned that it could cause problems if the road is closed.

Commissioner Weber asked if there is an easement in place for the waterline. Mike Gilles, the petitioner, stated that an easement was granted in 1978. Commissioner Lythgoe stated that if an easement is in place, closure of the road will not prohibit use of the road and access to the fire hydrant. Mike stated that he just wants to make this a private drive; he has no plans to block access. He has talked to the water board regarding his plans.

Hearing no further comment, Commissioner Lythgoe closed the public hearing.

RESOLUTION 18-2006 ORDER ABANDONING STREET IN BASIN

The following resolution was presented for adoption:

RESOLUTION 18-2006

AN ORDER ABANDONING A COUNTY STREET IN BASIN

A petition was filed with the Board of County Commissioners of Jefferson County, Montana (hereinafter, the "Board"), by Mike Gilles on the 9th day of June, 2006. This petition requested the abandonment of a certain Jefferson County street in an unincorporated town or

townsite within Jefferson County, Montana, and being a portion of a street within the original townsite of Basin, Jefferson County, Montana. The description of the subject County street is set forth as follows:

The old Main Street, directly north of Lots 1-13, T6N, R5W, Section 17, Block 12, Basin Townsite.

Pursuant to Title 7, Chapter 14, Part 26, MCA, the Board made a preliminary review of the subject Petition. The Board found that the petition was submitted by all of the landowners affected by street petitioned to be closed within Jefferson County and found that said petition described the particular street or portions thereof to be abandoned, the general route thereof, and the lands and owners affected by the proposed abandonment.

The Board further determined that the consent of the owners of the affected lands was endorsed upon the Petition by their execution of the same and that the Petition set forth the necessity for and advantage of the petitioned action.

Therefore, the Board ordered that the feasibility, desirability, and cost of granting the prayer of the Petition, and the merits or demerits of the proposed abandonment be investigated. In this regard, the Board appointed Commissioner Notbohm and Ben Sautter, Road Supervisor, to conduct the investigation. On June 27, 2006, Commissioner Notbohm reported that he investigated the merits of the petition and recommended that the petition be granted.

The Board considered the Petition and the findings of Commissioner Notbohm's investigation. The Commission approved the closure of said street; hereinafter described:

The old Main Street, directly north of Lots 1-13, T6N, R5W, Section 17, Block 12, Basin Townsite.

The Board found that the granting of the relief sought in the Petition was in the best interest of the County, was both feasible and desirable for the use and benefit of the public, would not cause any increase in costs to the public, and could be done without detriment to the public interest.

Upon such basis, the Board determined that the Petition should be granted and that an appropriate Order should be entered.

Therefore, **IT IS HEREBY ORDERED** as follows:

1. That the Petition of Mike Gilles is hereby granted subject to the following conditions:

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a) that the Petitioner recognize that no owner shall ever claim or attempt to claim that any portion of said street constitutes a “lot” or “parcel”, distinct from the owners adjoining lot or property, upon which the separate residence or structure requiring water and sewer facilities can be constructed, and;

b) that any utility easements now existing on the right-of-way will be continued unaltered and that access by utility company employees for the maintenance of the equipment shall be allowed, and;

c) that Jefferson County shall retain full utility rights, if any.

2. That the portion of the said Jefferson County street which is abandoned by this Order is more particularly described as:

The old Main Street, directly north of Lots 1-13, T6N, R5W, Section 17, Block 12, Basin Townsite.

DATED this 11th day of July, 2006.

ATTEST:

**BONNIE RAMEY
CLERK AND RECORDER**

TOMAS E. LYTHGOE, CHAIR

CHUCK NOTBOHM, COMMISSIONER

KEN WEBER, COMMISSIONER

Commissioner Notbohm moved to adopt the resolution. Commissioner Weber seconded. The motion carried.

**RESOLUTION 19-2006 APPOINT COUNTY PLANNER AS THE ENVIRONMENTAL
CERTIFYING OFFICIAL**

Harold Stepper, County Planner, stated that in the past he has been the certifying official, such as on the Big Boulder Apartments project. However, he spoke with Megan Bullock, the Sanitarian, and they feel that she is better suited for this. Commissioner Lythgoe stated that the resolution will be changed and put on the July 25 agenda.

APPOINT BOARD MEMBER

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Commissioner Weber stated that two applications for the library board had been submitted. He interviewed both applicants, and he recommended that Patrick Brown be appointed. Commissioner Weber moved to appoint Patrick Brown to the library board. Commissioner Lythgoe seconded. The motion carried.

DISCUSS AND DECIDE ON AMENDMENTS TO COUNTY ROAD STANDARDS

Commissioner Lythgoe read the proposed amendments as follows:

As written: Road design standards can be complex. Developers and the public are encouraged to contact the Jefferson County Road Department for additional information or clarification.

To read: Road design standards can be complex. Developers and the public are encouraged to consult a professional for additional information or clarification.

As written: The public access road design plans are to be submitted to the County for approval after Preliminary Plat application has been approved by the County and prior to any construction activities for the proposed project.

To read: The public access road design plans are to be submitted to the County for approval with Preliminary Plat application. There shall be no construction activity prior to Preliminary Plat Approval. At a minimum, the plans shall contain the following information:

The following Policy and Procedures were also requested to be adopted:

Required Information for Jefferson County Road Department regarding subdivisions

Preliminary Plat Application

1. Copy of Preliminary Plat
2. Any and all Encroachment Permits that may be required by Jefferson County
3. Any and all Approach Permits that may be required by Jefferson County
4. Copy of any and all Approach Permits that may be required by State or Federal

Highways

5. Approaches must be flagged and located on the ground
6. Roads must be staked and flagged on the ground
7. Preliminary Road Design
8. Copies of any State, Corps of Engineers, Federal or Fish Wildlife and Parks permits for creek crossings or wetlands

Final Plat Application

1. Letter of Certification from design Engineer for completion of road construction
2. Procter tests for gravel
3. Compaction test results for gravel
4. Compaction test results for asphalt mat (if required)
5. All road and street signs in place

6. Written request for inspection of completed project

Please Note

Jefferson County Road Department does not supply or sell any road signs, street signs or speed signs, stop signs or other. Developers must go to outside vendors for all signs.

Commissioner Weber moved to adopt the proposed amendments to the road standards. Commissioner Notbohm seconded. The motion carried.

DISCUSS SPEED LIMIT RECOMMENDATION ON OLD 282 BETWEEN MONTANA CITY AND SOUTH HILLS ROAD

Commissioner Lythgoe stated that a recommendation has come back from MDT regarding the section of 282 between Montana City and South Hills Road. The road is currently signed at 70 mph, but the 85th percentile had vehicles traveling below that speed. He stated that 60 mph is the logical choice for this 1.7 mile segment of road. Commissioner Notbohm stated that they are getting a lot of requests on the road further south. Commissioner Lythgoe stated that a speed study is also being conducted on that section of road. Commissioner Weber noted that the section of 282 Commissioner Notbohm is referring to as well as a section of road in the Whitehall area were requested for speed studies at the same time.

OPPORTUNITY FOR PUBLIC COMMENT

William Norris stated that in Basin, the state maintains the main road and Jefferson County does the other roads. He said that there is supposed to be three reflectors on the corner of Silver Street, which have been knocked down. Also, the 25 mph sign has rotted off. He has called the Road Department several times. He stated that he would be willing to replace the reflectors and the sign. Commissioner Lythgoe stated that the Commission will make sure that everything is put back up.

MEETING ADJOURNED

ATTEST:

**BONNIE RAMEY
CLERK AND RECORDER**

TOMAS E. LYTHGOE, CHAIR

CHUCK NOTBOHM, COMMISSIONER

KEN WEBER, COMMISSIONER